



Pursuant to Local Rule 7.1(h)(2), Intervenor-Plaintiff Sierra Club respectfully requests that the Court grant leave for Sierra Club to file a response to Defendants' Motion for Reconsideration or Clarification (Dkt. 205). Sierra Club's proposed response brief is attached as Exhibit A. The reasons why Sierra Club seeks to file a response are set forth in the accompanying memorandum.

Counsel for Sierra Club has conferred with counsel for the United States and counsel for Defendants about this motion. The United States does not oppose this motion. Defendants oppose the motion.

Respectfully submitted,

s/ Shannon Fisk

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*Counsel for Plaintiff-Intervenor Sierra Club*

Dated: April 24, 2014

### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing pleading, Sierra Club's Motion for Leave to File a Response to Defendants' Motion for Reconsideration or Clarification, was served via ECF on all counsel of record.

s/ Shannon Fisk  
*Counsel for Plaintiff-Intervenor*  
*Sierra Club*



**LEADING AUTHORITY FOR THE RELIEF SOUGHT**

Local Rule 7.1(h)

**ISSUE PRESENTED**

QUESTION: Should this Court allow Sierra Club to file a response to Defendants' Motion for Reconsideration or Clarification (Dkt. 205)?

ANSWER: Yes

Pursuant to Local Rule 7.1(h)(2), Intervenor-Plaintiff Sierra Club respectfully requests that the Court grant leave for Sierra Club to file a response to Defendants' Motion for Reconsideration or Clarification (Dkt. 205). Sierra Club's proposed response brief is attached as Exhibit A. In their motion, Defendants urge the Court to reconsider its April 9, 2014 Order, which granted Sierra Club's motion for leave to file an amended complaint. *See* Dkt. 202 (Order); *see also* Dkt. 186-1 (Sierra Club's proposed amended complaint).

Although responses to motions for reconsideration are generally not permitted, the Court may allow a party to file such a response where appropriate. LR 7.1(h)(2); *see also, e.g., Hazen v. Best Buy Co., Inc.*, Case No. 12–11290, 2013 WL 791533 at \*1 (E.D. Mich. Mar. 4, 2013) (response filed at the Court's direction). Here, Sierra Club wishes to file a response because Defendants' motion does not meet the standard for reconsideration established by LR 7.1(h)(3). More specifically, Sierra Club's proposed response explains that although Defendants correctly observed that they opposed a claim regarding Unit 3 of the River Rouge Power Plant, the April 9 Order reached the right result by permitting this claim to be pleaded. Accordingly, Sierra Club's response brief will show that even *if* Defendants could establish a palpable defect in the Court's Order, correcting that error should not "result in a different disposition of the case." LR 7.1(h)(3).

Finally, Sierra Club wishes to file a response in order to address Defendants' erroneous claim that the Court lacks jurisdiction over the River Rouge Unit 3 claim. *See* Dkt. 205 at 2. This issue is addressed in Sierra Club's proposed response brief. Ex. A at 3 n.2.

Respectfully submitted,

s/ Shannon Fisk

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*Counsel for Plaintiff-Intervenor Sierra Club*

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